

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

PHOENIX BOND & INDEMNITY, CO., *et al.*,

Plaintiffs,

v.

JOHN BRIDGE, *et al.*,

Defendants.

Case No. 05 C 4095

Consolidated with Case No. 07 C 1367

Judge Matthew F. Kennelly

BCS SERVICES, INC., *et al.*,

Plaintiffs,

v.

HEARTWOOD 88, LLC., *et al.*,

Defendants.

**PLAINTIFFS' MOTION TO RELEASE AND
DISBURSE FUNDS FROM THE COURT REGISTRY**

Plaintiffs Phoenix Bond & Indemnity Co. and BCS Services, Inc., by and through their undersigned attorneys, hereby respectfully request that the Court enter an order directing the Clerk's Office to release funds on deposit in the Registry of the Court and disburse those funds to plaintiffs as set forth below. In support of their motion, plaintiffs state as follows:

1. On January 25, 2012, judgment was entered in favor of plaintiffs and against defendants MD Sass Investors Servs., Inc.; MD Sass Tax Lien Mgmt., LLC; MD Sass Muni. Fin. Partners-IV, LLC; MD Sass Muni. Fin. Partners-V, LLC; Sass-Muni IV, LLC; Sass-Muni V, LLC; Vinaya Jessani and Kirk Allison (the "Sass Defendants") (Dkt.948). The total amount of compensatory and punitive damages awarded in favor of plaintiffs and against the Sass Defendants was \$4,317,480.58.

2. On February 22, 2012, the Court entered an order granting the motion brought by the Sass Defendants for a stay of enforcement of the judgment pending resolution of post-trial motions and further permitting the Sass Defendants to deposit cash into the Registry of the Court to serve as security for the stay in lieu of a supersedeas bond pursuant to Local Rule 65.1(b)(1). (Dkt. 977). The Court directed the Clerk of Court to accept the Sass Defendants' deposit of \$4,322,729.81, an amount calculated pursuant to Local Rule 62.1 (the amount of the judgment plus one year's interest at the rate provided in 28 U.S.C. §1961, plus \$500 to cover costs).

3. Shortly thereafter, the Sass Defendants deposited \$4,322,729.81 into the Registry of the Court, under the '05 case number.

4. On December 21, 2012, the Court issued its Memorandum and Opinion awarding plaintiffs' attorney's fees and expenses in the amount of \$13,038,956.27. Of this amount, the Sass defendants were jointly and severally liable with their co-defendants for \$8,158,262.97 and jointly liable with each other for another \$2,440,346.64, for a total of \$10,598,609.61. (Dkts. 1113 and 1114). The Court issued a Corrected Memorandum Opinion and Order on December 23, 2012 (Dkt. 1115), but it did not change anything relating to the Sass Defendants.

5. On January 9, 2013, the Court entered an order granting the motion brought by the Sass Defendants and approved the deposit of cash into the Court Registry in lieu of a supersedeas bond as security for a stay of execution of the award of attorney's fees and costs. (Dkt. 1143). The Court permitted the Sass Defendants to deposit cash into the Registry of the Court to serve as security for the stay in lieu of a supersedeas bond pursuant to Local Rule 65.1(b)(1). The Court directed the Clerk of Court to accept the Sass Defendants' deposit of

\$10,615,007.52, an amount calculated pursuant to Local Rule 62.1 (the amount of the judgment plus one year's interest at the rate provided in 28 U.S.C. §1961, plus \$500 to cover costs). (*Id.*).

6. On or about January 17, 2013, the Sass Defendants deposited \$10,615,007.52 into the Registry of the Court, under the '07 case number. As a result, the Sass Defendants have deposited a total of \$14,937,737.33 into the Registry of the Court.

7. As a result of the affirmance of this Court's rulings and the issuance of the mandate by the Court of Appeals, plaintiffs are entitled to recover the \$14,937,737.33 on deposit in the Court Registry together with any interest accrued minus the Clerk's Registry fee. Plaintiffs are in agreement regarding the allocation of those funds. Of the \$14,937,737.33 that was deposited by the Sass Defendants, Plaintiff Phoenix Bond & Indemnity Co. is entitled to receive \$6,433,985.20 and Plaintiff BCS Services, Inc. is entitled to receive \$8,503,752.13. Any interest that has accrued since the funds were deposited should be allocated and disbursed in the same proportion.

8. Plaintiffs bring this motion seeking release and disbursement of the funds on deposit in the Court Registry -- \$14,937,737.33 plus any interest minus the Clerk's Registry fee. Plaintiffs' motion is without prejudice to their entitlement to seek recovery of the full amount of all judgments entered in favor of plaintiffs and against all defendants, including the Sass Defendants.

WHEREFORE, plaintiffs respectfully request that the Court enter an order releasing the \$4,322,729.81 deposited by the Sass Defendants into the Registry of the Court under the '05 case number, the \$10,615,007.52 deposited by the Sass Defendants into the Registry of the Court under the '07 together with any interest minus the Clerk's Registry fee as follows:

\$6,433,985.20 shall be mailed to:

Phoenix Bond & Indemnity Co.
161 North Clark Street #3040
Chicago, Illinois 60601
Tax ID Number: 36-3083305

\$8,503,752.13 shall be picked up in person by:

Ms. Jocelyn Stoller, as principal of BCS Services, Inc.

Tax ID Number: 36-4253980

Any additional funds on deposit, including any interest accrued, shall be allocated and disbursed in the same proportion as the allocation set forth above.

Dated: October 11, 2013

PHOENIX BOND & INDEMNITY CO.

By: /s/ Jonathan S. Quinn
One of Its Attorneys

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CERTIFICATE OF SERVICE

I hereby certify that on October 11, 2013, I electronically filed the above and foregoing **Notice of Motion** and **Plaintiff's Motion to Release and Disburse Funds from the Court Registry** with the Clerk of the Court using the CM/ECF system, which shall send notification to all parties of record by operation of the Court's electronic filing system.

_____/s/ Jonathan S. Quinn